

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SUMMER K. MATHENA, a single	)	
woman,	)	NO. CV-13-0086-LRS
	)	
Plaintiff,	)	ORDER DENYING DEFENDANTS'
	)	MOTION TO DISMISS CLAIMS
v.	)	
	)	
AG GROWER SALES, LLC, a	)	
Washington Limited Liability	)	
Company; FRED A. ROSS, a	)	
married man; JEFF G. AGUIGUI,	)	
a married man; ROGER DILLON, a	)	
married man,	)	
Defendants.	)	

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BEFORE THE COURT is Defendants AG Growers Sales, LLC ("AGS"), Fred Ross ("Ross"), Jeff Aguigui ("Aguigui"), and Roger Dillon ("Dillon") (Collectively "Defendants") Motion to Dismiss Claims and for a More Definite Statement Under Rule 12, ECF No. 2, filed March 21, 2013 and noted without oral argument on May 10, 2013. Plaintiff opposed the Motion to Dismiss Claims (ECF No. 3).

Defendants assert that: 1) Plaintiff's federal law claims should be dismissed because she failed to timely exhaust her administrative remedies and the Court does not have jurisdiction; 2) Plaintiff's federal law claims against the individual Defendants should be dismissed because there is no basis for individual

1 liability; 3) Plaintiff's failure to accommodate claim is not  
2 plausible on its face; 4) Plaintiff cannot assert claims for  
3 disability-based constructive discharge; 5) Plaintiff cannot assert  
4 a claim for disability-based retaliation; 6) Plaintiff cannot assert  
5 a claim for quid pro quo sexual harassment against Defendant Dillon;  
6 and 7) Plaintiff should be required to amend her Complaint to  
7 include the dates of Defendants' alleged wrongful acts.

8 Plaintiff responds that Defendants' motion to dismiss should be  
9 denied because her Complaint (ECF No. 1) sufficiently alleges facts  
10 to state claims upon which relief should be granted. More  
11 specifically, Mathena's Complaint (ECF No. 1) alleges that this  
12 Court has jurisdiction over the Title VII, ADA, and WLAD claims  
13 because the Defendant AGS has more than fifteen (15) employees and  
14 the EEOC issued a right to sue letter, which was received by  
15 Mathena's counsel on July 5, 2012, and the Complaint was filed March  
16 1, 2013, within the period agreed to by and between the parties in  
17 the Tolling Agreements. ECF No. 1, 8.

18 The Court finds Defendants' motion is premature in that no  
19 discovery has been completed to date. Moreover, information in  
20 Defendants written submittals suggest significant knowledge about  
21 this case. The Court finds that the level of detail sought by  
22 Defendants, prior to discovery being conducted, is not required by  
23 the Federal Rules of Civil Procedure. Plaintiff's Complaint appears  
24 to provide sufficient facts to put Defendants on notice of the  
25 nature of the claims pleaded. Finally, Plaintiff has at least  
26 minimally complied with Rule 8 as well as with the requirements set  
27 forth in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) and  
28 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Accordingly,

**IT IS ORDERED:**

1. Defendants' Motion to Dismiss Claims and for a More  
Definite Statement Under Rule 12, ECF No. 2, filed March 21, 2013 is  
**DENIED.**

2. The District Court Executive is directed to enter this  
Order.

**DATED** this 14th day of May, 2013.

***s/Lonny R. Suko***

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LONNY R. SUKO  
United States District Judge